

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE,

Plaintiff,

v.

MONSANTO COMPANY, *et al.*,

Defendant.

Case No. 2:16-CV-00107-RSL

JOINT STIPULATED MOTION AND
[PROPOSED] ORDER AMENDING
ORDER SETTING TRIAL DATE AND
RELATED DATES

**NOTED FOR HEARING:
JULY 31, 2020**

I. INTRODUCTION

Plaintiff City of Seattle (“Plaintiff”) and Defendants Monsanto Company, Solutia Inc., and Pharmacia LLC (collectively “Defendants”) (collectively, “Parties”), respectfully submit this Joint Motion to Amend the Second Amended Order Setting Trial Date & Related Dates (“Motion”). There is a stay currently in place which expires on July 31, 2020. Pursuant to the Court’s Order on the Parties’ Stipulated Motion to Extend Stay of Case, the Parties jointly submit this proposed Order Setting Trial and Related Dates. *See* Dkt. #154.

II. RELEVANT FACTS

As pertinent to this Motion, on March 11, 2020, the Parties filed a Stipulated Motion to Stay the Case. *See* Dkt. #150. The stay was set to expire on April 24, 2020. The Parties agreed to propose a modification to the trial schedule once the stay was lifted. *See* Dkt. #150. The Parties further agreed that “the schedule they will propose will provide for

JOINT STIPULATED MOTION AND ORDER
AMENDING ORDER SETTING TRIAL DATE AND
RELATED DATES: CASE NO. 2:16-CV-00107-RSL - 1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

Defendants to complete a CR 30(b)(6) deposition of the Plaintiff at least thirty days before the deadline for exchange of expert reports.” *See* Dkt. #150. On March 16, 2020, this Court granted the stay. *See* Dkt. #152.

On April 22, 2020, the Parties filed a Stipulated Motion to Extend Stay of Case until July 31, 2020. *See* Dkt. #153. This Stipulation included the same agreement to confer and propose a schedule that “will provide for Defendants to complete a 30(b)(6) deposition of the Plaintiff at least thirty days before the deadline for exchange of expert reports.” *See* Dkt. #153. On April 23, 2020, this Court granted the extension of the stay. *See* Dkt. #154.

In order to accommodate the Parties’ agreement regarding the timing between the FRCP 30(b)(6) deposition of Plaintiff and the provision of expert reports, the Parties submit a proposed Order which contains staggered dates for the close of fact discovery and expert discovery. Additionally, based on previous experience, the Parties included additional time at the end of the proposed Order Setting Trial and Related Dates to allow adequate time for briefing pre-trial motions and adequate time for rulings on those motions.

The Parties are requesting an extended schedule for reasons that include the current situation with Covid-19. The review of hard copy documents and in-person depositions are likely delayed for months. The City of Seattle is transitioning to new outside counsel and new counsel needs to get up to speed on this complex case. The City’s former outside counsel did not provide the City with the database of documents the City had already produced until the end of June. The City’s new counsel needs to become familiar with the tens of thousands of documents already produced. These are some of the factors that led the Parties to request the attached schedule.

III. CONCLUSION

The Parties respectfully request that this Court enter the Parties proposed Order Setting Trial and Related Dates filed concurrently herewith.

JOINT STIPULATED MOTION AND ORDER
AMENDING ORDER SETTING TRIAL DATE AND
RELATED DATES: CASE NO. 2:16-CV-00107-RSL - 2

PDX\112389\219658\JCA\28668192.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 Dated this 31st day of July, 2020.

3 SCHWABE WILLIAMSON & WYATT

4 By: /s/ Jennifer L. Campbell

5 Jennifer L. Campbell, WSBA No. 31703
6 Connie Sue M. Martin, WSBA No. 26525
7 1420 5th Avenue, Suite 3400

8 Seattle, WA 98101

9 Phone: (206) 622-1711

10 Email: jcampbell@schwabe.com
11 csmartin@schwabe.com

12 CAPES SOKOL

13 Adam E. Miller, Bar No. 40945

14 (Admitted Pro Hac Vice)

15 Lisa N. DeBord, Bar No. 61658

16 (Admitted Pro Hac Vice)

17 8182 Maryland Avenue, Fifteenth Floor

18 St. Louis, MO 63105

19 Phone: 314.721.7701

20 Email: miller@capessokol.com
21 debord@capessokol.com

22 KING & SPALDING LLP

23 Donald F. Zimmer, CSBA No. 34371

24 (Admitted Pro Hac Vice)

25 Nicholas D. Kayhan, CSBA No. 129878

26 (Admitted Pro Hac Vice)

Megan Nishikawa, CSBA No. 271670

(Admitted Pro Hac Vice)

101 Second Street, Suite 2300

San Francisco, CA 94105

Phone: (415) 318-1200

Email: FZimmer@kslaw.com
NKayhan@kslaw.com
MNishikawa@kslaw.com

26
JOINT STIPULATED MOTION AND ORDER
AMENDING ORDER SETTING TRIAL DATE AND
RELATED DATES: CASE NO. 2:16-CV-00107-RSL - 3

PDX\112389\219658\JCA\28668192.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 LATHAM & WATKINS LLP
2 Robert M. Howard, CSBA No. 145870
(Admitted Pro Hac Vice)
3 Kelly E. Richardson, CSBA No. 210511
(Admitted Pro Hac Vice)
4 12670 High Bluff Drive
5 San Diego, California 92130
6 Phone: (858) 523-5400
7 Emails: robert.howard@lw.com
kelly.richardson@lw.com
andrea.hogan@lw.com
8 *Attorneys for Defendants Monsanto Company,*
Solutia Inc., and Pharmacia LLC

9
10 OFFICE OF THE CITY ATTORNEY

11 By: /s/ Laura B. Wishik
12 Peter S. Holmes, WSBA #15787
13 Laura B. Wishik, WSBA #16682
14 Office of the City Attorney
15 701 Fifth Avenue, Suite 2010
16 Seattle, WA 98104-7097
17 Phone: 206.684.8200
18 Emails: Laura.Wishik@seattle.gov
19 *Attorneys for Plaintiff City of Seattle*

20
21
22
23
24
25
26
JOINT STIPULATED MOTION AND ORDER
AMENDING ORDER SETTING TRIAL DATE AND
RELATED DATES: CASE NO. 2:16-CV-00107-RSL - 4

PDX\112389\219658\JCA\28668192.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

PROPOSED REVISED SCHEDULING ORDER

Deadlines	Current Dates¹	Proposed Amended Dates
TRIAL DATE (the Parties do not agree on the likely length of trial) Plaintiff's estimate: 3 weeks Defendants' estimate: 8-12 weeks	November 2, 2020	March 7, 2022
Fact Discovery Completed By ²		May 14, 2021
Deadline for amending pleadings	May 13, 2020	May 14, 2021
Reports from expert witnesses under FRCP 26(a)(2) due	May 13, 2020	June 18, 2021
All motions related to discovery must be noted on the motion calendar no later than the Friday before discovery closes pursuant to LCR 7(d) or LCR 37(a)(2)		
Expert Discovery Completed By	July 15, 2020	September 3, 2021
Settlement conference held no later than	July 22, 2020	October 1, 2021
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see LCR 7(d)(3))	August 4, 2020	October 7, 2021
All motions in limine must be filed by and noted on the motion calendar no earlier than the second Friday thereafter. Replies will be accepted.	October 5, 2020	December 2, 2021
Agreed pretrial order due Pretrial conference to be scheduled by the Court	October 21, 2020	January 28, 2022

¹ Some of these deadlines occurred during the stay, and therefore, the Parties request that the new proposed dates be entered.

² The current case schedule includes a single date for discovery cutoff. The Parties request two separate dates: a fact discovery cutoff and an expert discovery cutoff, as this will assist the Parties in sequencing and streamlining discovery.

**JOINT STIPULATED MOTION AND ORDER
AMENDING ORDER SETTING TRIAL DATE AND
RELATED DATES: CASE NO. 2:16-CV-00107-RSL - 5**

PDX\112389\219658\JCA\28668192.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

Deadlines	Current Dates ¹	Proposed Amended Dates
Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits due	October 28, 2020	February 11, 2022

I. ORDER

It is so ordered.

Dated this _____ day of _____, 2020.

THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT COURT

CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

I hereby certify that on the 31st of July, 2020, I electronically filed the foregoing **JOINT STIPULATED MOTION AND [PROPOSED] ORDER AMENDING ORDER SETTING TRIAL DATE AND RELATED DATES** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Peter S. Holmes
peter.holmes@seattle.gov
Laura B. Wishik
laura.wishik@seattle.gov
Office of the City Attorney
701 Fifth Avenue, Suite 2010
Seattle, WA 98104-7097
Tel: 206.684.8200
Attorneys for Plaintiff City of Seattle

/s/ Jennifer L. Campbell
Jennifer L. Campbell, WSBA #31703